

CORPORATION TAX ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Part 22: Miscellaneous provisions

Chapter 8: Exemptions

Overview

2911. This Chapter provides exemption from corporation tax for certain bodies.
2912. This Chapter rewrites some, but not all, of the provisions in Chapter 6 of Part 12 of ICTA. The sections dealing with exemptions for charities, and for bodies that are treated as charities, which form part of Chapter 6 have been included with the rules for charitable companies etc in Part 11 of this Act.
2913. A number of sections of Part 12 of ICTA are obsolete and this Act repeals these redundant sections.

Section 981: Exemption for trade unions and eligible employers' associations

2914. This section provides a limited relief for trade unions and employers' associations. It is based on section 467(1), (3) and (3A) of ICTA.
2915. [Section 467](#) is drafted in terms of "a trade union" and provides a definition of the meaning of "trade union". This definition includes specified employers' associations. The inclusion of employers' associations in the definition of "trade union" reflects the old system under which there was a single system of registration for trade unions and employers' associations. Following the Industrial Relations Act 1971 - or, in Northern Ireland, the [Industrial Relations \(Northern Ireland\) Order 1992 \(SI 1992/807 \(N.I.5\)\)](#), - there are separate systems of registration for the two kinds of organisation, which are accordingly separately defined.
2916. The approach in section 981 reflects this change in the arrangements for registration and includes references to both "trade union" and "eligible employers' association". The use of "eligible" is intended to flag at the outset that not all employers' associations qualify for the exemption. Only those employers' associations that were in existence and qualified for the exemption in 1971 (1992 for Northern Ireland employers' associations) qualify.

Section 982: Qualifying income or gains

2917. This section defines the types of income subject to relief and provides a partial definition of what provident benefits are. It is based on section 467(1) and (2) of ICTA.

Section 983: Meaning of "trade union" and "eligible employers' association"

2918. This section defines trade union and eligible employer's association. It is based on section 467(4) of ICTA.

Section 984: Local authorities and local authority associations

2919. This section exempts United Kingdom local authorities and local authority associations from corporation tax. It is based on section 519 of ICTA.
2920. The definitions of “local authority” and “local authority association” are in section 1130 and section 1131 respectively.

Section 985: Health service bodies

2921. This section exempts health service bodies from corporation tax. It is based on section 519A(1) of ICTA.
2922. It is the first of three sections that deal with the exemption from corporation tax of health service bodies. The exemption is straightforward except in the case of NHS foundation trusts where under certain circumstances the exemption does not apply. The sections are based on section 519A of ICTA.

Section 986: Meaning of “health service body”

2923. This section provides a definition of “health service body”. It is based on section 519A(2).
2924. Section 519A(2) of ICTA states that the definition of “health service body” included a National Health Service trust constituted under section 12A of the National Health Service (Scotland) Act 1978. However, there are no longer any “National Health Service trusts” in Scotland (they were abolished as at 1 April 2004) and the NHS Reform (Scotland) Act 2004 repealed section 12A of the 1978 Act. The reference to section 12A is therefore not reproduced in this provision.
2925. Section 519A(2) of ICTA also states that the definition of “health service body” included a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991. However such trusts were renamed by section 1 of the Health and Social Care (Reform) Act (Northern Ireland) 2009. The table accordingly refers to Health and Social Care trusts.
2926. The table includes references to Health and Social Services Boards and the Northern Ireland Central Services Agency for the Health and Social Services. These bodies were dissolved from 1 April 2009 by the Health and Social Care (Reform) Act (Northern Ireland) 2009.
2927. The 2009 Act makes provision about the transfer of functions of Health and Social Services Boards and of the Northern Ireland Central Services Agency for the Health and Social Services to other bodies. Section 27 of the that Act makes provision about the translation of legislative references to the old bodies into references to bodies to whom functions of the old bodies have been transferred. Subsections (2) and (4) of that section deal with the transfers of functions of the bodies referred to in section 519A(2) of ICTA. The translations of the references do not operate generally, but only “in relation to” functions that have been transferred from the old bodies to the new bodies.
2928. Legislative references to the old bodies do not therefore include references to functions which were not carried on previously by those bodies.
2929. In order to preserve the current law this Act retains the references to the old bodies.

Section 987: NHS foundation trusts

2930. This section removes some classes of activity carried on by NHS foundation trusts from the exemption to corporation tax in section 985. It is based on section 519A(3), (4), (5), (6), (7), and (8) of ICTA.
2931. The exception from the exemption broadly applies to commercial activities.

*These notes refer to the Corporation Tax Act 2010
(c.4) which received Royal Assent on 3 March 2010*

2932. *Subsection (1)* provides that an order must be made by the Treasury for the exception to apply.
2933. Under the terms of Health and Social Care (Community Health and Standards) Act 2003 an NHS foundation trust is not obliged to carry on commercial activity through a separate company. Such activity may be subject to corporation tax if the conditions set out in *subsections (2) and (3)* are met.
2934. The taxation treatment of NHS foundation trusts may be contrasted with that for local authorities and local authority associations (see section 984). Using powers under section 99(4) of the Local Government Act 2003, the Government issued the [Local Government \(Best Value Authorities\) \(Power to Trade\) \(England\) Order 2004 \(SI 2004/1705\)](#). This order allows local authorities to trade but provides that the trade must be carried on by a company.

Section 988: Issue departments of the Reserve Bank of India and the State Bank of Pakistan

2935. This section exempts from corporation tax the income of the issue departments of the central banks of India and Pakistan. It is based on section 517 of ICTA.

Section 989: Agricultural societies

2936. This section exempts profits made by an agricultural society from exhibitions or shows where those profits are applied solely to the purposes of the society. It is based on section 510 of ICTA.
2937. The section gives statutory effect to the decision in *Peterborough Royal Foxhound Show Society v CIR* (1936), 20 TC 249 HC, by replacing the reference in section 510 ICTA to livestock breeding with a reference to the breeding of any kind of animal.
2938. [Section 510](#) ICTA includes “livestock breeding” among the activities that define an agricultural society for the purpose of the exemption under that section. In the case mentioned above it was held that “livestock breeding” in section 23 FA 1924 (which became section 510 ICTA) includes foxhound breeding. The judge in that case said that,
- The words “live stock” are ordinarily and properly used in contrast with dead stock and include all live animals and birds the breeding of which is regulated by man.
2939. The decision in that case was applied in *CIR v Glasgow (City) Ornithological Association* (1938), 21 TC 445 Court of Session, in which it was held that “livestock” in section 23 of FA 1924 included caged birds.